PRE-APPEAL BRIEF REQUEST FOR REVIEW	Docket Number: DE920020028US1	
I hereby certify that this correspondence is being transmitted via the EFS-Web System to the USPTO on: August 16, 2010 Signature:_____ /David Victor/ Typed or Printed Name: David W. Victor	**Application Number:** 10/539,644	**Filed:** June 15, 2005
	First Named Inventor: U. HANNSMANN et al.	
	Art Unit: 2166	**Examiner:** Ann J. Chempakaseril

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached four (4) sheet(s).
    Note: No more than five (5) pages may be provided.

I am the:

☐ applicant/inventor

☐ assignee of record of the entire interest.
   See 37 CFR 3.71. Statement under 37 CFR 3.73(b)
   is enclosed. (Form PTO/SB/96)

☒ attorney or agent of record.
   Registration Number Registration No. 39,867

☐ attorney or agent acting under 37 CFR 1.34
   Registration number if acting under 37 CFR 1.34
   _____

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Signature

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August 16, 2010
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required*.

Applicant(s):	U. HANNSMANN et al.	Examiner	Ann J. Chempakaseril
Serial No.	10/539,644	Group Art Unit	2166
Filed	June 15, 2005	Docket No.	DE920020028US1
TITLE	A METHOD FOR PROVIDING OF CONTENT DATA TO A CLIENT		

PRE-APPEAL BRIEF REQUEST FOR REVIEW ARGUMENTS

Applicants request review and reconsideration of the Examiner decision to reject claims 1, 16, 17, 40, 45-47, 49, 50, 52-55, 57, 58, and 60-62 as obvious (35 U.S.C. §103) over Remer (U.S. Patent App. Pub. No. 2003/0088516) and Aburri (U.S. Patent No. 7,203,966), and further in view of Kazuo (Machine Translation of JP App. No. 10215242) in the Final Office Action dated April 15, 2010 ("FOA") And Advisory Action dated August 3, 2010.

1.　　**Claims 1, 47, and 55:** Applicants request review and reconsideration of the Examiner finding that para. 54 of Kazuo teaches the claim requirements of permitting access to the content data in response to determining that the available content usage in the license status indicates that the license has expired; tracking content usage in response to determining that the available content usage indicates that the license has expired and permitting access to the content data after the license has expired; synchronizing with the server to transmit the tracked amount of usage of the content data at the client after the license status is expired at the client; and providing payment for the amount of usage of the content data after the license status is expired. (FOA, pgs. 8-9)

The cited para. 54 discusses a content provider encrypting content from a ticket issue center. The content provider encrypts a key in the content. A user demands issue of an access ticket, and the center 30 publishes an access ticket for the user. The user uses content with the access ticket. Information about utilization conditions, such as utilization charge, payment method, expiration date is given to an access ticket. A user's use of the contents will record the history on the token. The user sends the utilization history to the center 30 and the center is charged based on the utilization history. A fee is calculated based on collected history and charged to the user's account, and then distributed to the content provider.

Although the cited para. 54 discusses charging a user based on content utilization, there is no teaching of the claim requirement of permitting access to the content data in response to determining that the available content usage in the license status indicates that the license has

expired and then tracking post-expiration content usage. Instead, the cited para. 54 discusses how a user's utilization is tracked and charged. This cited discussion in para. 54 of tracking user utilization of content for charging purposes does not teach the claim requirement of keeping track of an amount of available client usage of the content data at the client when the "available content usage" indicates that the license has expired, where the "available content usage" is decremented. The Examiner has not shown where Kazuo teaches permitting access and tracking content after the license has expired.

Further, the cited Kazuo does not teach the claim requirement of providing payment for an amount of usage after the "available content usage", which is decremented in response to providing access to the content, indicates that the license has expired. The Examiner has not cited any part of Kazuo that teaches or suggests permitting, tracking and charging for content usage that occurs after determining that the available content usage in the license is decremented to a point to indicate that the license has expired. Instead, the cited Kazuo discusses charging for utilization based on user use.

In the Advisory Action dated August 3, 2010, the Examiner found that

the claim does not limit the scope to a situation when there is "no more available content usage". The limitation as claimed shows permitting access to available content when license status has expired. The claim does not show anything about "no more available content usage." In other words, content data has to be available for the client to access it.

Applicants concur that the content has to be available for the client to access the content. Applicants do not argue as the Examiner contends that the claims recite that there is "no more available content usage". Applicants instead contend that the cited Kazuo does not teach the claim requirement of permitting access to the content data at the client in response to determining that the "available content usage" element, which is decremented in response to content usage, indicates that the license has expired. The Examiner has not cited any part of Kazuo that teaches that access is permitted to content in response to determining that an element of the license status, i.e., the "available content usage", indicates that the license has expired.

Applicants note that the cited Kazuo discusses recording user history on the token according to use and sending utilization history to the center for charging. However, this discussed tracking of utilization history in Kazuo does not teach that access is permitted and content usage is tracked after the "available content usage" is in a state indicating that the license

has expired. Instead, the cited Kazuo discusses tracking in general, not with respect to an expired license as claimed.

2.   **Claims 17, 50, and 58**: Applicants request review and reconsideration of the Examiner finding that col. 62, lines 40-55 of Aburri teaches the claim requirements of sending, by the client, to the server a request to renew the license and make payment for the renewal in response to the client determining that the available content usage in the license status indicates that the license has expired. (FOA, pg. 6)

    The cited col. 62 mentions that the user's computing device may contact the license synchronization server to synchronize the server's license information with the user's device's license information, such as when the user next connects to the synchronization server so that any new licenses in license store will be downloaded into the device, and the server may send a replacement license for that device.

    Although the cited col. 62 discusses how the synchronization server will provide the device new license information when the device connects to the server, the cited col. 62 does not teach the specific claim requirement that the client sends the server a request to renew the license and make payment for the renewal in response to the client determining that the "available content usage" indicates that the license has expired. Instead, the cited col. 62 discusses synchronizing with the server to get the new license info, not the client sending a request in response to determining that the available content usage indicates license has expired.

3.   **Claims 63, 65, and 67**: Applicants request review and reconsideration of the Examiner finding that para. 54 of Kazuo teaches the claim requirement that access to the content data in response to determining that the available content usage in the license status indicates that the license has expired is permitted in response to the client not being able to connect to the server, and wherein the synchronization occurs when the client is able to reconnect to the server. (FOA3, pg. 9)

    The cited para. 54 discusses tracking a user, who is provided a ticket to access content, utilization of the content to provide to a center to charge the user. Nowhere does this cited para. 54 teach or suggest permitting access to the content upon two conditions – that the license status indicates the license has expired and when the client cannot connect to the server. Instead, the

cited para. 54 discusses tracking user usage to submit to a center that will then calculate a fee based on such usage.

Moreover, the cited Kazuo teaches away from allowing access when the user cannot connect to the server, because the cited para. 54 focuses on being able to connect to the center 30 to provide the utilization history, not providing continued access after the license is indicated as expired and when the client cannot connect to the server as claimed.

4.   **Claims 64, 66, and 68**: Applicants request review and reconsideration of the Examiner finding that para. 54 of Kazuo teaches the additional claim requirements of determining whether the file permits the user to continue to use the content data after the license has expired, wherein the operations of permitting access to the content data in response to determining that the license has expired and tracking content usage is performed in response to determining that the file permits the user to continue to use the content data after the license has expired. (FOA, 3, pg. 9)

As discussed, the cited para. 54 discusses tracking utilization of content at a user provided a ticket to send to a center to charge the user. Nowhere does this cited para. 54 teach or suggest determining whether the license file at the client permits the user to continue to use content after the license has expired.   The Examiner has not cited any part of para. 54 of Kazuo that teaches determining whether the license file permits continued usage after the license has expired. Instead, the cited para. 54 discusses tracking utilization history to submit to a center that will then calculate a fee based on such usage.

Dated: August 16, 2010   By: /David Victor/
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